

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JAMES EDWARD BARBER,)	
)	
Plaintiff,)	
)	
v.)	CIVIL CASE NO. 2:23-cv-342-ECM
)	
KAY IVEY, Governor of the State of)	
Alabama, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Now pending before the Court is the Plaintiff's Emergency Motion Regarding Counsel's Right to Access (doc. 70) filed on July 19, 2023. The Plaintiff seeks "an order directing [the Alabama Department of Corrections] to allow counsel for Mr. Barber to bring one pad of writing paper, two click-top pens, and one plain wristwatch (not a smart watch) to Holman Correctional Facility when she attends Mr. Barber's execution as a witness." (*Id.* at 1). The Defendants oppose the motion. (Doc. 73).

Presumably with respect to the Plaintiff's request regarding the wristwatch, the Defendants rely on ADOC Administrative Regulation Number 303 to assert that all visitors are prohibited from wearing jewelry into the prison. (Doc. 73 at 1). The Court agrees that the wristwatch would constitute jewelry and is banned under the administrative policy.

However, the Defendants fail to adequately demonstrate that a pad of paper and pen are prohibited. Indeed, these items are not listed as prohibited under the administrative regulation. (Doc. 70-2 at 18). In addition, the Plaintiff represents that she previously has

been permitted to bring paper and a pen to an execution, and that the media is permitted to do so. The Defendants do not address or otherwise challenge these representations. Accordingly, upon consideration of the motion, and for good cause, it is

ORDERED that the emergency motion (doc. 70) is GRANTED to the extent that the Defendants shall permit counsel for Mr. Barber to bring into Holman Correctional Facility one pad of paper and one click-top pen. The motion is DENIED in all other respects.

Done this 20th day of July, 2023.

/s/ Emily C. Marks
EMILY C. MARKS
CHIEF UNITED STATES DISTRICT JUDGE